

REMARKS

The Examiner has objected to the specification as failing to provide proper antecedent basis for the recitation “the ring being of substantially closed structure” in Claims 1, 12, 18, and 34-37.

Applicants have amended these claims to delete “of substantially closed structure” and have amended Claim 1 to recite that the first component is “generally ring-shaped”.

Applicants disclose two specific embodiments of the first component (spacer ring), the “C-shaped body” of the first component of the implant of Figs. 1 and 2 described at page 12, lines 10-12 and the “intact ring” (as opposed to a C-shaped ring) of the first component of the implant of Fig. 4 described at 8, lines 1 and 2. Claim 1 as amended in its recitation of “generally ring-shaped” covers both the C-shaped ring and the intact ring configurations. The remaining claims of the application cover either the C-shaped ring or the intact ring.

It is believed that these amendments to the claims obviate the basis for the Examiner’s objection to the specification.

The Examiner has objected to Claims 9-11 and has proposed that the objection could be overcome by changing the dependency of Claim 9 from Claim 2 to Claim 1. Since Claim 1 is under rejection herein, applicants have instead amended Claim 9 to be in independent form. As amended, Claims 9-11 are believed to overcome the Examiner’s objection.

Claim 14 which has been objected to by the Examiner has been amended in accordance with the Examiner’s suggestion.

The Examiner has rejected Claims 1, 2, 5, 18 and 22 under 37 U.S.C. §103(a) as obvious over Ferree in view of Anderson et al.

All of the claims as presented herein require a *ring-shaped* spacer component. The implant shown in Ferree Fig. 4D to which the Examiner specifically refers is *not ring-shaped*. While that portion of the Ferree implant made up of elements 440 and 446 may be said to be C-shaped, it is *not* ring-shaped. The ring shape of applicant's spacer component is essential to the proper functioning of the claimed two-part intervertebral spacer in the claimed method of restoring spacing between adjacent vertebrae since it better conforms to the anatomy of the intervertebral space than, say, a rectangular shape, the latter being fairly descriptive of the overall configuration of conjoined elements 440 and 446 of Ferree Fig. 4.

It is also noted that in applicant's Claim 18, the intervertebral spacer is an *intact* ring, a configuration entirely different from the C-shaped structure disclosed in Ferree.

The Anderson et al. teaching of an implant made from bone does nothing to make up for this lack of teaching of a ring-shaped first component in Ferree.

For the foregoing reasons, amended Claims 3, 4, 6-8, 19-21 and 23 are considered to be patentable over Ferree in view of Anderson et al.

The Examiner has indicated that Claims 3, 4, 6-8, 19-21 and 23 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Since applicants have amended these claims in this fashion, they are believed to be in condition for allowance.

Claims 9-11 and 14 have been amended to overcome the Examiner's objection and as such are believed to be in condition for allowance.

Applicants note the allowance by the Examiner of Claims 12, 13 15-17 and 24-37.

Reconsideration and allowance by the Examiner of Claims 1-37 as presented herein are respectfully requested.

Respectfully submitted,



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